

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

-----X

MICHAEL AUSTIN,

Plaintiff,

-against-

HESHAM M. ATWA, M.D., *et al.*,

Defendants.

-----X

WICKS, Magistrate Judge:

On October 29, 2021, Plaintiff moved to compel (1) the production of Defendants' Rule 26(a) disclosures; (2) Defendants' appearance at their depositions; and (3) Defendants' responses to Plaintiff's first document requests and interrogatories. (DE 34.) Plaintiff additionally sought the imposition of sanctions, namely that Defendants (1) be precluded from serving their untimely requests for production and interrogatories; (2) be held in contempt of court; and (3) pay Plaintiff's attorney's fees and costs associated with bringing the present motion. (*Id.* at 3.) Vexingly, Defendant requested an extension of time to file opposition Plaintiff's motion—which the Court granted—but then went silent. (*See* DE 35.) That is, Defendant apparently opted to not file any opposition. The Court therefore considers Plaintiff's motion unopposed.

Given that Rule 26(a) disclosures were due on September 7, 2021 and responses to document requests and interrogatories were due on November 19, 2021 (DE 32), Plaintiff's motion to compel seeking the production of Defendants' Rule 26(a) disclosures and responses to Plaintiff's first document requests and interrogatories is GRANTED. Defendants shall produce said material and may propound their own document requests and interrogatories on or before **January 10, 2022**. Because the discovery scheduling order in this matter does not set forth a deadline by which depositions must be completed (*id.*), the branch of Plaintiff's motion seeking to

ORDER

21-CV-01242 (LDH) (JMW)

compel Defendants' appearance at their respective depositions is DENIED with leave to renew at a later date. The parties are directed to meet and confer concerning deposition dates. The Court will set the deposition deadline at the next status conference, which will take place on **January 18, 2022 at 1:00 PM via Zoom**. Finally, the Court concludes that sanctions are inappropriate at this time, and Plaintiff's motion for sanctions is accordingly DENIED. Defendants are cautioned and forewarned, however, that future noncompliance with this Court's orders—including failing to meet set discovery deadlines—may well lead to sanctions under Federal Rule of Civil Procedure 37. *See Sagax Dev. Corp. v. ITrust S.A.*, 19-CV-3386 (RA) (KNF), 2021 WL 5360121 (S.D.N.Y. Nov. 17, 2021) (Fox, M.J.).

Dated: Central Islip, New York
December 8, 2021

S O O R D E R E D:

/s/ *James M. Wicks*

JAMES M. WICKS
United States Magistrate Judge